

PUBLIC DEFENDER COMMISSION MINUTES

June 30, 2006

Butte Plaza Inn

2900 Harrison Avenue

Butte, MT 59701

(Approved as corrected at the July 31, 2006 Commission meeting)

Call to Order:

The Public Defender commission meeting was called to order at 8:54 a.m. by Commissioner Stephen Nardi, acting as Chairman for this meeting.

Commissioners Present:

Betty Bischel, Edgar; Stephen Nardi, Kalispell; Wendy Holton, Helena; Mike Sherwood, Missoula; Caroline Fleming, Miles City; Tara Veazey, Helena; Jennifer Hensley, Butte; Doug Kaercher, Havre and James Park Taylor, Missoula, via conference call.

Commissioners Absent:

Theda New Breast, Babb; Daniel Donovan, Great Falls

Other Interested Parties:

Beth Brenneman, Montana Advocacy Program; Don Kinman, AFSCME Montana Council 9 (mtcouncil9@qwest.net); Laura Christofferson, private attorney via phone; Sheri Heffelfinger, Legislative Services; Representative John Parker; Senator Dan McGee; Matt Wald, Region 11 Regional Deputy Public Defender via phone; and Betsy Griffin, Montana ACLU.

Correction of May 15, 2006 Minutes:

Commissioner Holton stated that she missed the meeting and her name should be moved from the present to absent section. Commissioner Nardi noted that on page three, in the first paragraph, it should read "the Court Administrator," instead of court administration. Commissioner Nardi stated to Chairman Taylor that he was told by Harry Freebourn that the reason the minutes did not get posted was that there has been a lot of traffic and they are emailing them to you right now. Commissioner Sherwood stated that for future information there is a WiFi at this hotel, however Commissioner Kaercher cannot get it to work, but Commissioner Nardi has been able to get it to work.

Commissioner Nardi asked Chairman Taylor if he had the minutes yet, to which Chairman Taylor stated he did not. Commissioner Nardi told him he would in a minute. At this time, Commissioner Nardi asked if everyone had a chance to review the May minutes and if there were any additions or corrections. Commissioner Nardi asked if there was a motion to

approve the May minutes. Commissioner Sherwood said that he would move to approve the May minutes, Commissioner Fleming also moved to approve the minutes and Commissioner Bischel seconded the motion. Commission Nardi asked for a vote and the May Minutes were unanimously accepted.

Correction of June 14, 2006 Minutes:

Chairman Taylor stated that on Page 6 there were a couple of typos stating that it should read “his practice,” and “his overhead.” Commissioner Bischel stated that on page three, second paragraph should be “contract,” not contact.

Commissioner Holton asked if we are just working on the June minutes.

Commissioner Sherwood asked Chairman Taylor on the phone if he heard that we have to speak up for the tape recording. Chairman Taylor answered yes. Commissioner Nardi stated that these are good minutes; I see Mr. Sherwood’s comment about “rape” on page seven part-way down. Commissioner Nardi asked if anybody else had any comments on the June 14 meeting, has everyone had a chance to look at them. Commissioner Nardi then asked everyone present and they all said they looked fine. Commissioner Sherwood moves to adopt the minutes from June 14 with Commissioner Holton seconding that motion, the minutes were approved.

Commissioner Nardi suggested that we start talking about the proposed standards. Do we go line by line or how shall..... Chairman Taylor interrupted stating he had a proposal that would speed up this process. Commissioner Nardi stated that Chief Hood received two written letters regarding the standards.

Chief Hood stated that these letters just came into the office the last couple days, one from Judge Haines and one from Judge Simonton in Glendive. Judge Haines stated, in the first portion of the letter, his compliments on the good job done. His suggestions are minimal. For instance on page three, section A2, he suggested that we delete “assigned counsel,” and either state it as Public Defender Counsel or Contract Counsel. Chairman Taylor stated that they may be assigned by us, and there may be a couple other places that appears. Commissioner Sherwood stated that some modification for that term may be needed. Chairman Taylor stated that technically Chief Hood is right that we have deputy public defenders and contract public defenders so we should avoid the use of assigned counsel.

Commissioner Nardi asked if there were any objections, there were no objections stated by the members present and it was deemed amended.

Continuing, Chief Hood stated that on page four, number 2, we need to say “good cause,” not just cause. Also it should read “physically” unable. Commissioner Taylor wanted to know if it said “just unable”; and Commissioner Fleming asked if it was just “with good cause.” Commissioner Sherwood moved that we amend that standard by striking physically. Chairman Taylor stated that the reference should be to the regional deputy public defender or the conflict

coordinator, and Commissioner Sherwood stated again to strike the word “physically,” and include “in judgment of regional deputy public defender or the conflict coordinator.

Chief Hood continued with page four under the heading “Termination of Representation” should be changed to Termination of Employment and, move to Section 4, Administration.

Commissioner Nardi interrupted to state that we should deal with Commissioner’s Sherwood’s motion regarding “counsel shall not be required to continue representation if, in the judgment of the regional deputy public defender or conflict coordinator, he is unable to continue.” Chairman Taylor stated that it should be appropriate regional coordinator or some kind of qualifier. Commissioner Sherwood moved to add the words “overseeing said counsel Commissioner Veazey seconds that motion that “completion of a client’s case shall not be required if in the judgment of the regional deputy public defender or conflict coordinator overseeing counsel, he is unable to continue.

Commissioner Sherwood suggested we step back further on the issue of “physically or mentally,” wanting to know who makes that determination, if counsel wants out. Commissioner Fleming wanted to know if we could use the terms of the judgment of counsel’s supervisor and Commissioner Holton stated that if counsel is not competent to handle a particular case, couldn’t we just take their word for it?

Chief Hood stated that she understood what Commissioner Holton is saying, and that there are isolated incidents where they want out for other reasons such as they have a difficult client, but that difficult client will be difficult with everybody. Commissioner Holton further stated that the difficult client would impact their ability to act within the office, and Chief Hood stated that a decent portion of our work is this type of client

Commissioner Sherwood stated that this paragraph was intended if counsel was sick or ill, not intended for those who didn’t want to take a case. Commissioner Sherwood further stated that he worried if we were complicating the language.

Commissioner Veazey wants to vote on Commissioner Sherwood’s language if we should read it with the “or” or not. And Commissioner Sherwood wanted to know if the Conflicts Coordinator Supervisor has a say in this statement. Chairman Taylor stated that not technically at this point, under the standards, he only facilitates payment to the contract attorneys. Chairman Taylor further stated that he liked Commissioner Fleming’s wording “with supervision” and he thought we should move to strike the word physically and before the word is place a comma, and so moved, however I understand where Commissioner Veazey is coming from.

Chairman Taylor moved to strike the word county and insert region. Commissioner Bischel seconded the motion. And, Commissioner Sherwood stated that before the word is insert “... in the judgment of the regional public defender or conflict coordinator overseeing that counsel,” and Commissioner Sherwood further moved that the last word county be stricken and the word region be inserted in its place. Chairman Taylor seconded that motion. Commissioner

Sherwood stated that we may have to do a search for the word “regional public defender” and anywhere there is a decision making process, we need to insert “conflict coordinator.”

Commissioner Kaercher asked if we are restating whose discretion it is, is it someone supervising counsel or the conflict coordinator, and is it at his or her discretion. Commissioner Sherwood then stated he agreed and was now withdrawing the motion. He further stated that in the first sentence, after regional public defender, insert “or conflict coordinator overseeing that particular counsel and then in the next sentence strike the word physically and strike county and insert at the end of the sentence “region.” Commissioner Kaercher seconded that amended motion.

Chief Hood came back to Judge Haynes’ letter stating that Section D should be Employment, not Representation; and in terms of this page, he wants us to consider the initial assignment of counsel protocol, mainly how soon do we start representation. He further stated one final thing and that pertains to substitution of counsel, or the removal of someone, or states that the substitution of counsel may be setting case law. Chief Hood noted that this was more appropriate as office procedure instead of standards.

Commissioner Nardi made a recommendation to change to Employment, not Representation and asked those present and listening if they had any thoughts. Commissioner Sherwood agreed and in response to Judge Haynes’ proposals, agreed with Chief Hood’s proposal. Further, Commissioner Sherwood moved to amend the first sentence on page four, paragraph D-1, striking the words “and local guidelines for assigned counsel” and inserting “of employment” after termination and striking the words “by the parties.” The sentence should read “Public defender office standards, and contracts for indigent legal services shall include the grounds for termination of employment. Chairman Taylor agrees, and asks Commissioner Sherwood if that was a motion. Commissioner Sherwood affirmed stating that Section D should read “Termination of Employment,” Commissioner Fleming seconded the motion and Commissioner Nardi asked for a vote; all were in favor and there were no nays.

Chairman Taylor asked that a letter be written to Judge Haynes to thank him for his comments. Chief Hood agreed to write the letter.

Chief Hood went on to discuss Judge Richard Simonton’s letter and stated that Judge Simonton has some misinformation, and that she would write a letter to clarify it. He is worried that we have set up a huge bureaucracy and stated that she would clarify this. He is also somewhat upset about the \$80.00 per hour.

Chief Hood stated that Judge Simonton had another concern. This concern involved training, support services, researching tools, he thinks that attorneys in eastern Montana do not have such resources, and that we should not make ourselves better than prosecutors. Also, he has an issue when conflicts arise. He does not like the idea of starting representation earlier because it will cost too much money. He also does not like the regional “people” telling the contract “people” what to do. Chief Hood will respond and clarify for him. Judge Simonton is very easy to talk to, there shouldn’t be a problem.

Commissioner Sherwood stated that there is a standard that talks about the public defender offices and then talks about contract lawyers living up to the standards. It requires that public defender offices have resources and research capabilities on par with County Attorney offices. Then would we require each attorney to have a hook-up of West Law in their office?

Commissioner Sherwood stated that we raised the issue at our last meeting about authorizing Larry to engage in contract negotiations with attorneys, but did not specify a floor, but merely a suggested rate of \$60 per hour. Larry Murphy has now sent out proposed Memorandums of Understanding which he indicates prospective counsel will be signing saying they have reviewed our standards and agreed to comply with them. In response to that, our standard staff counsel must have 20 hours a year of Continuing Legal Education (CLE) credits in the specific field of criminal defense. As an explanation for lay people here, there are CLE requirements of 15 hours for every lawyer in order to continue to practice and it is not required they be in any given field. In light of the problems Larry is experiencing, certainly it is true that at \$60.00 per hour, we could be running on low staff, and many are not a full time office etc. I would suggest an amendment to the standards to reduce it to 15 hours for contract attorneys in counties of less than 40,000 population. Attorneys residing in counties of less than 40,000 obtain 15 hours of CLE, and in conjunction, move that we authorize Larry to continue with suggested rate of \$60 per hour, and again not wanting to micromanage this thing, authorize Larry to engage in incentives to contract lawyers to include an hourly increase in their pay. I propose we authorize him to generally consider these figures: a \$2 per hour increase to those attorneys with Westlaw or Lexis, (are group rates available?); a \$4 per hour increase for a quarter-time secretarial resource; \$8 per hour increase for half-time secretary dedicated to them; a \$10 per hour increase for a paralegal. Also authorize a \$2 per hour increase if the attorney can certify that he has 20 CLE in the criminal law or field in which they are contracting with us. In summary, well let me take one step back, Judge Simonton gave great input on the Appellate Defender Commission and is a person dedicated to double checking everything we did. Some people feel we have this system that we don't want to disrupt, but it doesn't work very well statewide where sometimes we have seen corruption, and inept representation. I think that he thinks that his lawyers are saying to him that their system isn't broken. I think he is doing in it a kind way. If there are people out there running bare at \$60 per hour, try to give them some incentive to come over and they don't know the first thing about Lexis, we need to give them incentive. We have seen corruption in some places. At \$60 per hour I cannot afford staff. That's why I had this in mind; I wanted to address Larry Murphy's concerns. Need Larry Murphy's input, the numbers not set in stone, what the costs of a secretary and/or paralegal costs. Coax people to get more people and staff to allow Larry Murphy to get the attorneys.

Chief Hood interjected stating that she, Larry Murphy, and Eric Olson have been discussing in terms of the 20 hours. The 20 hours of CLE education may not be the right term. It immediately makes the people think it's the same as what the State Bar requires. We may want to do more video-type training than the State Bar typically allows. We were thinking the commission would say that 20 hours education and training, or the equivalent. Which means we can help out these people in rural areas, send them a disc to plug in at home to deliver the training. And also because it does recognize that there are people more qualified than others and will be training us can that be used as equivalent hours to the CLE hours. Eric Olson is working on getting training and information to people in Eastern Montana.

Commissioner Sherwood stated that this afternoon we will do an action item on the incentive. Further, do we want to go to 20 hours or 15 hours? We do not need to be dictated by Eastern Montana. If they can't do 20 hours, we might not want them in our system, no need to give them extra consideration, need it more than others because they don't do the work as much. With respect to this specific issue, we need to defer to Chief Hood and Larry Murphy for an amendment to meet their needs.

Commissioner Nardi asked Commissioner Sherwood if he wanted to address the 20-15 hours now. Commissioner Sherwood stated he would withdraw his motion and defer to the public defender's office to what will be appropriate.

Commissioner Veazey moved to adopt Randi's suggestion to 20 hours training/education or the equivalent.

Chairman Taylor stated he was not so keen on equivalent, he saw no reason we can't keep the 20 hours for training and education. Commissioner Veazey asked if that was to complete 20 hours CLE of training and education only.

Commissioner Sherwood asked that Larry Murphy report on getting people on board. Larry Murphy stated that since Monday of this week he has been telling them it is free, available on video or disc, approved by the bar and approved for CLE hours. Laura Christofferson in Culbertson said if you require it she won't practice. My question is why should we treat them any differently, but then we won't have attorneys, I feel we are stuck between a rock and a hard place. Commissioner Nardi stated that he did not want to start catering to attorneys just because they don't like something, that's just not good.

Larry Murphy stated that he made the mistake of sending the Memorandums of Understanding out in a blast. When she responded, she sent it out also in a blast. In the beginning, Western Montana had no objections to \$60 or CLE hours. Now it has moved into the Livingston area. Commissioner Sherwood stated that it seems they have us over a barrel, how many attorneys we have to pick from.

Larry Murphy responded saying he sent samples of emails he has been receiving, on CLE problems. He has ten applications from that region, Glendive area, and has received two signed Memorandums of Understanding back, we may not get anymore. At this point, he is really concerned that we won't have the man/woman power to provide the services. As an option we may want to consider hiring full-time or part-time staff. Wyoming does it, however we don't have the data, but if we offered someone a flat number, telling them that they will do all the work in this area, live up to the CLE hours, etc., it may be something.

Commissioner Sherwood questioned whether the regional director in Region 10 has power over her people. Larry Murphy responded by saying that a number of the regional people have decided they would take it on themselves, and she was overwhelmed, but she is the administrator first, and they are now backing out. Commissioner Sherwood asked if they were backing out on the CLE issue alone. Commissioner Kaercher stated that there is not a lot of

experience there and further, that we require attorneys to come to our seminars. They don't seem to have a problem.

Larry Murphy stated that a frequent comment from a number of these folks is they are saying that 10% of my practice is public defender work and now you want me to do more of my credits on criminal or public defense versus my private practice. They know that they only need 15 hours of credit for the State Bar. These are just a few of the kinds of responses with regard to the 20/15 CLE issue. At this point, Eric Olson is working on us providing a portion of the program for a CLE in Glasgow which will be more accessible.

Commissioner Sherwood stated that we are dealing with people who don't do a lot of public defender work. We're saying now that 20 CLE's is what you need in our world. I just think its money. That's why I proposed the \$2 per hour increase. If they are only doing 10% of public defender work, we are talking about them being out of the office for two days. Commissioner Nardi stated that all they have to do is watch a tape.

Commissioner Sherwood stated that no one is getting paid more than \$100 per hour. Have them sign a contract that they get \$2,000 at the end of the year. Commissioner Nardi stated that then everyone has to get \$2,000 and Chief Hood asked what if they only do two cases? Commissioner Sherwood stated that again, they have us over a barrel and they will get more, they will keep asking for more.

Larry Murphy stated that they came across with a big bluff; we heard about the \$80 per hour versus the \$60 per hour, we worried about them initially and now the applications came in. First it was the money, now it is the CLE's.

Commissioner Sherwood asked how many contracts do we need to hire to get the job done in Glendive, do we have courts in Wolf Point, Malta, Plentywood, Scobey, Poplar, Culbertson? Commissioner Veazey asked how many contracts are we supposed to have? Chief Hood responded with some more than others, no set amount. Commissioner Sherwood asked how many people are you going to hire. Larry Murphy said that he hoped to hire all of them. Commissioner Sherwood renewed his proposal at \$2,000. Commissioner Nardi asked if we at least have a couple of bodies up there now and how many more do we need. Larry Murphy stated that we have the regional and two other applications. Commissioner Veazey stated that there are only 79 private practicing attorneys in those regions.

Chief Hood stated that a person in Wolf Point wanted to be do full time public defender work, and stated she would do as much as she could but, she needs training. Chairman Taylor told Chief Hood to offer her a part-time contract, we want dedication, we cannot lose on this issue, no reason to have standards and not enforce them.

Commissioner Sherwood stated that if you are doing less than 50% public defender work, then we will give you an incentive of \$1,000, that way we can cut it down to 60 lawyers.

Commissioner Kaercher stated that they have to give 15 hours whether they work for us or not, we are only asking for 5 more.

Larry Murphy stated that we have to travel; we may want to think about reimbursing expenses. I think that might be a good incentive, which we are doing with our full-time employees. Treat them the same as public defenders, maybe with that incentive they would be willing to come on board.

Commission Fleming stated that she didn't think it was about the money, after all, they go to Billings to go shopping. I think they want to feel their input is heard, and then we get to respond.

Chief Hood stated that Matt Wald is on the cell phone. Matt indicated he was listening in.

Commissioner Nardi asked for public comment with everyone in the room.

Matt Wald stated via cell phone that he thinks for his region we have most of the fires put out; still have one objection from one individual. He has no intention of ever doing a felony, but can do intakes. Commissioner Sherwood indicated to leave that to Larry Murphy's discretion to the type of training they would be handling.

Matt Wald continued that he basically put upon myself that we are going to work with them to make it user friendly. A lot has happened in the West, they really don't have any interest in doing half their case work as appointed work.

Commissioner Sherwood stated to Matt Wald that he appreciated his comment, and another person is on another cell phone. Laura Christofferson, comments as follows: from the 15th judicial district, we recognize our responsibilities to provide services, and we have done that in an informal fashion. I think a lot has been overlooked; historically our judges were in charge of appointing people. They knew what our experience level is for each case, and they knew which attorney would be best for which situation. The criminal defense in Eastern Montana, which is 5%, is no where near 50%. The judges look at us and say that I have a family, so they send me the family case; Larry O'Toole has experience in capital offenses. We have developed our niches and we share the work we feel qualified to do, did our job without the training. 20 CLE's are offensive, and how do we continue to serve our communities? These are our moms, families; they are not people we do not know. We have emotional ties to our community.

Commissioner Sherwood stated to Laura Christofferson that we appreciate your consideration; we are trying to devise a system that will work for you guys out there too.

Laura continued, saying if given some latitude we can figure out the ways to share the work. I understand there are incompetent lawyers, we are pretty competent and our people get good quality service. I just know we are not going to get any volunteers at 20 CLE's. They don't want to do the work because of the 20 CLE's.

Commission Sherwood commented on Laura's statement, saying that he is a criminal defense lawyer in Missoula, please be assured that this committee is trying to do a good job, we

are not playing a czar role. We saw a lot of abuses and we put this requirement in the standards, now we are getting feed back. I do mostly criminal law; we appreciate the input from all different types of attorneys. As Larry Murphy explained, we want to make training readily available at virtually no cost. But we understand that even at no cost, it costs to get out of the office. What can we do? Is there a more reasonable standard that would apply for those not doing full-time work? If the office is contracting with people, we would like to know they are getting the training.

Chairman Taylor stated that we actually have a bigger problem in that 20 hours adds up to about 100 hours of training if they are in remote areas, and they contract in more than one area.

Commissioner Sherwood stated that there should be some sort of equivalency situation. We need to know what their skill level is and they have to meet a certain level; we need to tailor the training to their needs. Chairman Taylor stated that it was not physically possible to keep up with everyone's specific needs.

Chief Hood asked Matt and Laura, if CLE's are offered in Glasgow in December, can we get three or four hours on that every year? If we can we get our hours on that CLE, through that mechanism, it's not like they are not getting any training at all.

Matt Wald said we need discretion, we know who can handle what, they need to stay up on it, but when you have people you need for certain cases, they need certain CLE's, keep people involved and educate them.

Chief Hood asked about Matt being given some kind of authority with their proficiency in that. Will they be receptive to that if you give them criminal defense but they need CLE's to do other types of work?

Matt Wald stated that there are certain individuals he wouldn't put on a felony without the training and he feels there needs to be a little discretion so the issue can be addressed

Commissioner Sherwood stated that we can draft something to take care of them. Chairman Taylor stated, how about if for contract counsel we allow Larry Murphy to waive the training requirement with Eric Olson's approval and that way we can work out who needs what training, and have a record as to who is up to snuff and that will take care of that.

Commissioner Sherwood stated that they could get 10 hours of DN training, and if they have done 50 DN's they don't need the training for that. We need some system to train on the areas they need. Commissioner Taylor stated that we have to for the contract attorneys, especially in regions where they are not doing that much.

Eric Olson stated that he had a couple of conversations with Laura Christofferson, and was very impressed that Laura is trying to let us know there is plenty of help, she would enjoy having us provide four or five of CLE out there in Glasgow, and accepted that as a first step to help them out with that situation.

Chief Hood suggested that she, Larry Murphy and Eric Olson could draft language to deal with all these different kinds of cases we have been talking, say by next Friday. Commissioner Sherwood said yes, put that together, on an individual basis, would like to see that. That way we could pass the standards as they are today, but make the corrections final at the next meeting.

Chairman Taylor stated that we could adopt the standards today, but they won't be in effect today, they will be provisionally in effect for about five months, have about eight months to work with them, we will get them fixed. We have not had input from people on the ground. Matt Wald commented not to leave the regional guys out. Chief Hood responded that everyone totally understood that and you won't be left out. Everyone in the room was in agreement with that statement. Commission Nardi noted that you know your people best and Matt Wald stated that was good enough for him.

Commissioner Nardi wanted to sum up after Matt Wald's phone call was disconnected. We want you to understand that we are going to craft an educational requirement that will work for contract attorneys. We have appointed a sub-committee to come up with language changes to handle equivalency. We will make it work for you.

Laura Christofferson suggested we look at some component to contact district judges who also know who is competent, have them have some ability to say, yes this person is qualified.

Eric Olson asked if she was familiar with the fact that Ali Moulton is the state system representative in that region and if you would feel comfortable working with Ali. We know she is in difficult position, considering the logistics, please contact her and I'll be back in touch with you.

Chief Hood stated that they will craft language next week for your input; the commission is committed to working to suit your needs as well as ours. Laura Christofferson stated that there are no lawyers in our courts right now. Commissioner Nardi asked if there was anything else and Laura Christofferson stated that if we could provide four to five hours for the Glasgow CLE, that would be great.

Commissioner Sherwood stated that at some point next week, you will get another proposal, and we'll wait for your input. Laura Christofferson further stated that they maintain their time in quarter hours here and that tenths of an hour doesn't work for us. Commissioner Sherwood acknowledged that statement and said it was good to know. Laura Christofferson stated that our software would have to be fixed to accommodate the tenths of an hour.

Commissioner Sherwood stated to get back to Eric Olson, Larry Murphy and Chief Hood, and that we loved the input, and to get to your regional director. Laura Christofferson stated that things are not that negative.

Commissioner Nardi asked if there were any objections to the idea of equivalency. Commissioner Bischel had some concern. In the event we have Native Americans with no experience, the regional director needs to step in and make sure they get that training.

Commissioner Holton stated that the only thing is competency, and we must realize that specialized areas are very problematic. We need to trust our regional directors; they need to be certain of who's doing what because the whole process is a matter of competency. We need to be careful about letting those standards slip just to have a body there. Chairman Taylor said practicing in all of these areas, a person would need more than 100 hours of training, but must have training in the type of case they take. I think it comes down to monitoring. Before the input from Commissioner Kaercher and Laura Christofferson, about the extra 5 hours, I think we can work that in with what Matt was saying about someone who only wants to do abuse and neglect cases.

Commissioner Sherwood stated he was comfortable allowing Larry Murphy and Eric Olson to do that.

Commissioner Kaercher stated that he was in favor of some kind of requirement, if you are able to get 15, then you must do 5 more to get in the system in your area. If you are an 80% public defender, then 80% of those hours doing some of the 20 CLE training hours. If you are a 100% contract attorney, then you have to do all 20 CLE's. I feel comfortable with Larry Murphy and Eric Olson handling the training discretion.

Commissioner Veazey stated that she feels comfortable because she has to. I have real concerns about lowering standards for parts of the state; it defeats the purpose of the state office. I want it stated that we deeply care about the standards held to a high level. We do care a lot about equivalency because they can still be bad even if they have practiced for 20 years. We don't have any other offices in Eastern Montana. I understand about travel costs, but we do have options, we can pull them in from Billings or Great Falls. I reluctantly agree with removing any sort of strong language, I care that everyone in the system be held to the same high standards.

Commissioner Fleming stated that she feels the same as Commissioner Veazey and further stated that we have computers, etc. and the level of competency must be of a high level. We must ensure competent counsel for all our people. I fully trust Matt Wald because he knows everyone. Ali Moulton is a little new but she will get there and they need to have a lot of input. Direct them to those who have concerns. It's good to keep them in the loop for who is in charge of their regions.

Commissioner Veazey stated that her comments are not made to suggest that people in Eastern Montana are less competent, just that the standards are held high for everyone.

Commissioner Sherwood stated that what is not unique to me is that I play in a lot of courts and oftentimes people call me and ask me what to do in Libby. I may have more expertise than an attorney in Libby or Phillipsburg, but they are better off with local people. We have recurring problems, not being able to get a good result. Specific problems come from each area, some of the biggest cases arose from local criminal defense lawyers doing great deals and not

understanding what was going on. It's a great deal for a guy killing a deer, but not for the guy when drugs and guns are involved. These people are doing a great job, but are not educated enough about the consequences of the deals they are making. The need for education is great and we can get it done.

Commissioner Nardi stated that he agreed with everything that has been said. However, Larry Murphy and Eric Olson have to understand this isn't a free pass. We're going to make the concession for equivalency at your discretion, but make it tough on them.

Chief Hood stated that we are committed in the state office to doing that. There are lots of people who do good work, because that is the way it's always been done, that's the way they've always done a particular case. They don't know it's not the right way and that there is another way. We have always thought that we would be out in the field helping them do it right.

Chairman Taylor stated he wants a waiver of a training standard for an individual attorney included in the monthly report to the commission.

Eric Olson asked for a little bit of guidance in that are we drafting this for a limited targeted audience. Commissioner Nardi stated that it should be statewide and only for contract attorneys since our staff attorneys have already agreed to the 20 hours.

Commissioner Sherwood stated that you guys are going to figure it out.

Commissioner Nardi at this point asked for Public Comment.

Beth Brenneman of the Montana Advocacy Program stated that she had two comments. Because of the work we do, and the involuntary commitments we have, I would hate to see an equivalency requirement without a basement requirement. Involuntary commitment training means representation is sufficient. Larry Murphy mentioned a lump sum contract for services per year; we would discourage entering into any lump sum contract that is not based on number of cases.

Commissioner Nardi asked for any other public comment at this time.

Commissioner Sherwood commented that Chairman Taylor suggested action item on the standards, say make the first five months to December 1, be training standards, they are not technically in effect. Then from December 1 to March 1, the standards will be provisional, and on March 1 they will become absolute law.

Chairman Taylor stated that there is going to be a big shift on how business gets done now. Some of these things we didn't think about until a couple of days before we had a system in place and ready to go. We will get comments after it goes into effect, but in the meantime, we will be training on them for five months. Then there will be three months working with them as something we have to comply with, and then at end of eight months they will be in effect.

Commissioner Sherwood asks Chairman Taylor how he envisions the standards being acted on. Is everyone on board with that? I think Larry Murphy and Chief Hood should have some reaction to that on the next agenda and as far as imposing performance standards, whether they be employment contracts, something along those lines, when that comes up.

Chairman Taylor responded with the comment that they will comply with the standards as they adopt them. Commissioner Sherwood stated that we haven't adopted them yet. Chairman Taylor said that we will adopt them as-is today as training standards.

Commissioner Sherwood stated that if the standards say one thing and one attorney does not do it, does Larry have the provision to end a contract if someone violates a particular standard, so is what you are saying is they are provisional, but you have to live up to them. Chairman Taylor stated that they could terminate them for cause if they are not providing effective counsel.

Commissioner Sherwood stated that, for instance, Larry Murphy signs a contract, and it says you will provide this type of counsel, and you are certifying that you have read and complied with the standards that we have provisionally adopted, but then two months from now they say I won't do this or that.

Chief Hood stated that one thing the contract says is we are not guaranteeing a certain amount of work. Commissioner Sherwood states that for instance, you have an employee, and he/she won't file any discovery motions, then do we have grounds to terminate that contract. Chief Hood states that between now and January, these people are all operating in a probation period.

Chairman Taylor stated that he thinks we are going to make things more complicated at this point considering there are 115 pages of standards for them to comply with. This is a huge change as to how this takes place, it will take time. We need time to tinker with it and make sure it is working right.

Commissioner Sherwood asked if it was too late to tell them they are on probation until March 1. Chairman Taylor stated that the standards go into place by December 1, and that will give us time to see who works out and who doesn't, that gives them five months of training and three provisional months to adapt to the standards.

Chief Hood stated that actually the new hires have one year probation. Commissioner Sherwood said okay, on December 1, the system will be up and running and we can weed out the bad ones.

Commissioner Nardi pointed out that these standards are a living and breathing document and we can change them at anytime; we can adopt them as-is today and change them as we go.

Chairman Taylor made a motion to search and replace in the standards wherever it said "assign counsel" and change it to "contract counsel as appropriate." The motion was seconded by Commissioner Veazey and all were in favor, motion passed.

Chairman Taylor also noted that on page 18, VI, paragraph 2, the various standards were supposed to be cross-referenced in this standard and they weren't. It was noted by Chief Hood that they are on the printed copy. Once comments from Jim Wheelis are received on the Appellate standard, there may be further changes in the Appellate standards. Chief Hood noted that we did incorporate Chad Wright's comments.

Chairman Taylor asked for a motion to adopt the current standards for training purposes until December 1, to make them provisional until March 1 and then they are final. Commissioner Sherwood so moved, Commissioner Fleming seconded, and the motion carried.

Larry Murphy mentioned that on page 14, it states that contracts for legal services should be awarded on a competitive bidding basis. Chairman Taylor said that we cannot accept contracts on the basis of lowest bid. Chief Hood noted that we don't need bidding in there at all. Commissioner Nardi asked if anyone opposed that and it was amended to remove bidding.

Commissioner Sherwood mentioned that we are not doing competitive bidding, and noted that Sheri Heffelfinger, Legislative Analyst brought this up, and further wanted to know if there was any feed back from them.

Chairman Taylor stated that it is supposed to be a competitive process and not a bidding process; we are exempt from the state contracting law. Larry Murphy stated that when we broke from that session, I pulled Sheri Heffelfinger aside and spoke with her. She stated that since the statute does not include bidding; her position is such that lawyers look at contracts different than we do. She sees it as a bidding process, not a competitive process. But the bottom line is the people assigning cases to a regional person must show why they chose Joe over Bill in giving a case. I don't agree with her, but that is where she is coming from.

Commissioner Sherwood stated that we are not going to be bidding. Also, there is a motion on the floor at this time, so does everyone understand the motion to accept the standards to December 1. Commissioner Nardi asked for any discussion on this matter, there was none, all were in favor, and no one opposed the motion.

Chairman Taylor stated that the "Chairman" for today is doing a good job. Commissioner Nardi indicated that we will be taking a lunch break and at 1:00 Chief Hood will be giving us her report.

BREAK at 11:29 a.m.
Lunch ended 12:08 p.m.

Commissioner Nardi brought the meeting back to order and stated that at this time Chief Hood will give her report.

Chief Hood stated that she would like to bring everyone up to date on each region, which is changing daily. Let's begin with Region 1. As you heard yesterday, there is a problem in Region 1; to date those attorneys doing the contract work are just dumping cases on us. John Putikka, Region 1 Deputy Public Defender, told us that he would have 100 cases dumped on him

Monday morning. Judges were strong proponents for our cause and they want to know if they should insist those attorneys finish their cases. We discussed that he shouldn't take any case in which they have entered a plea of guilty. Pre-trials are scheduled for Wednesday, Thursday and Friday. John will go to the judges with what we are willing to do. Region 1 office is in a temporary location. They have laptops, a couple of phone lines. Glen Neier is in that office, the managing attorney is Nick Aemisegger who does not have a lot of criminal experience but he has started to take on some criminal and neglect. Carolyn Gill from Thompson Falls will be going into that office and starting right away. There will be two other positions, one with several years experience and one without any; the last two are not finalized. On Monday morning there will be at least three people ready to go, not counting John Putikka, and the rest within 60 days. Larry Murphy has received some contract attorney applicants, so we are pretty good in Kalispell.

Commissioner Bischel wanted to know what the judges are thinking.

Chief Hood responded that strangely enough the Kalispell lawyers thought they would get what they wanted, and the judges aren't supporting these lawyers. The judges are cooperating with the new system.

Continuing, Chief Hood stated that in Polson we have a little office. Noel Larrivee will be there for about a year to help us get it up and running. Tim Goen is going to be one of our attorneys and he comes from Iowa and will start in August. The third position is a young man who is a deputy county attorney in Chinook and did a wonderful interview, came highly recommended and he will move over in a couple months.

Commissioner Nardi wanted to know if they taking care of Sanders County also.

Chief Hood stated that there were not a lot of attorneys in Thompson Falls, but John Putikka has been quite good at getting them. There are a couple other people we have to do the job. We don't have space in Polson, and do have good contract lawyers available.

With regard to Region 2, Missoula, their office is ready, remodeled, carpeted, painted, and ready to go; we are moving the office tomorrow. The Missoula attorneys are very excited. They had five openings and filled them with a 22-year experienced attorney, Chris Daly; one a year out of law school; and two very bright law graduates. Chairman Taylor commented that Chief Hood did a good job recruiting Katie Olson.

Chief Hood continued saying that I envisioned that office with a seasoned attorney, some middle people and a couple new people. In Hamilton, we have hired everyone; space will be ready October 1, expanding in his building. We will park someone in his conference room for now. Two who have done contract work will begin work right away, and we will help them pay their rent until our space is ready.

With regard to Region 3, Great Falls, Kristina Neal has done a fabulous job. She is in place with all her areas. There is one vacancy in the public defender office, one attorney is moving from Missoula to Great Falls. Betty Carlson will manage the office. In Great Falls, they

wanted us to stay in the courthouse, then they didn't, we are not exactly on the same page as their commissioners. The Regional office will be above the public defender office, and in a year they'll move everyone into the courthouse. Kristina has been real good, she has not filled all of her positions, but she is real close. Some won't come on until August or September. Kristina did a good job finding places.

With regard to Region 4, Helena, they will be staying in the courthouse, and will switch over to state network system in a few weeks. The regional office will be up and running on Monday. One attorney is moving from the Helena public defender office to the Butte office because he lives in Butte. Monday we'll know about the second attorney, the briefing attorney has just been hired. The other new hire is on maternity leave and will start in August.

With regard to Region 5, Butte, Sherry Staedler is Regional Deputy Public Defender. The Butte office isn't ready as of this date. Dierdre Caughlan, our managing attorney, will stay in her location and we will help her with rent until the new office is ready. Sherry's position needs to be replaced in Anaconda. We are currently interviewing in this region. October 1 is the date for the new location to open. The regional office will be on the other side of our office, the Central Office, and the public defender office is a block and half up the street.

With regard to Region 6, Havre, Dan Boucher is the Regional Deputy Public Defender. His support staff will start Monday, and at this point there are no leasing problems. From an IT standpoint, he has everything he needs; we will transfer him to the state system at a later date.

Commissioner Fleming stated it was a continual thing, but for right now we will use his office.

Chief Hood continued with Region 7, Lewistown. Doug Day, Regional Deputy Public Defender, does have office space now and does not start paying rent until July 1. The landlord gave him furniture and fax machine at no charge. However, his furniture is being delivered the end of next week.

Chief Hood went on with Region 8 stating that Peter Ohman in Bozeman has hired everyone, and he hired several young attorneys including Sam Hadden's law clerk.

Billings, Region 9, will be staying in the same location and expanding. The problem in Billings is that they had nine attorney openings. Carl DeBelly is head of that regional office. They have hired six of the nine positions and we are still receiving applications. This region also includes the 22nd Judicial District, with lots of qualified attorneys.

In Region 10, Glendive, Ali Moulton has worked very hard to forge those relationships. It is pretty much under control. We have hired an energetic young woman to be the paralegal and she is relocating to Glendive.

Region 11 with Matt Wald is under control, he has office space, has hired his staff, July 7 he will have all his technology in. He hired someone from the County Attorney's office and I think they wept when she left.

On another matter, we have developed an appointment form (refer to Exhibit 3) that we wanted the courts of limited jurisdiction and district courts to complete, they give us this information and we will run with it. The courts of limited jurisdiction were notified via email that this form is placed on the Full Court computer system. They just pull it up, fill it out and email it to their regional public defender. They also have a hard copy of this; we gave it to them in every possible form. They can see their region number and the necessary contact information. They have a computer system called Full Court that can carry the form. Some say they have Full Court and don't use it. We sent them an additional email trying to answer their questions. We do appreciate their input and come Monday morning we hope we will get the forms. For district courts, we are asking them if they could download the form and give it to their scheduling person.

Harry Freebourn stated that we have not called the limited courts at this time but are working to do so; however, we have called all district courts to make sure they are ready to go with our forms on Monday.

Chief Hood stated that it was not a criticism; they just don't want to give up their power of appointing. They are on board, and now they want to do everything; things will even out as it goes into next week. We have responded to all the emails. We have produced a form to assist us in determining a client's indigence (please refer to Exhibit 4). This form is blue, we wanted them to stand out, and we have had a couple comments. It's a work in progress. We are getting the forms out there so they have them on Monday. We may make a slight change, so they put the cause number on it. The second group of forms will have a wallet size card saying don't talk to anyone with regional contact information.

Commissioner Veazey asked how they are getting the cards.

Chief Hood stated that it was her experience that the cards work, but sheets of paper get lost. We have gotten a lot of cooperation from the courts. We are trying to accommodate the wishes of each court as to how much they want to facilitate getting the clients identified for us.

Harry Freebourn gave the Commission an update on Legislative issues and timelines. We were invited to attend and present an update to the Legislative Law and Justice Interim Committee so if you can attend, maybe we can schedule our next meeting around that meeting in Helena on August 31. Chief Hood and I did attend the Legislative Finance Committee meeting June 9 in Helena. This committee was very cordial to us, but they were concerned about our estimate that we are going to be \$3.3 million over budget in fiscal 2007, and that there are 100 more people on in our plan than were approved by them in the last legislative session. Chief Hood did a good job telling them why we were doing what we were doing. We were asked to do several things: First, provide a reconciliation of the fiscal note that funded our office to our strategic plan. This will show them where we changed things. Second, provide a detailed financial plan by office. Third, the ACLU during our process of getting the office up and running, had done their own budget for what they thought the system should cost, and their number was in the 20 million range, they want to see that plan. This committee was concerned that we weren't doing a bidding process for contracts with private attorneys. They want our

contracting procedures and assigned Representative Sinrude (Republican from Bozeman) to follow up. Chief Hood and I invited him to Butte to see our operation and we will give him as much information as he desires. The next Legislative Finance Committee meeting is in Helena October 12 and 13. I recommend that the commission schedule our meeting for the date that we present and attend that meeting in force. The other thing is the Law and Justice Interim Committee; Senator McGee wants our costs per office, and we will provide that for him, we have kind of already gone through that process.

Commissioner Nardi stated that the reason the costs are going up is we are getting better services, try to compare that number, we are taking on City Courts and others.

Harry Freebourn stated that he also heard the Law and Justice Interim Committee would probably want one hour from us in August in Helena at their next meeting. They will probably ask us for updates on this. I briefed them on our activities. We need to sit down with them one on one and bring them up to speed. We haven't had a chance to get out there. The session starts on January 3 and we have turned all of our budget items into the Governor's office

Chief Hood stated that we will want to discuss who needs to register as a lobbyist. My conversations with several people are that they went on the side of being cautious. We should take this tact also. I think there is a little fee. We want to discuss how we are going to discuss the lobbying.

Harry Freebourn discussed the GANT Chart (Exhibit 8), which tracks different jobs that we were charged to do by statute. The dark areas are the tasks that have been completed. The white areas are the tasks that still need to be completed and are mostly in the area of the Information Technology. Teri Heiland continues to review software programs and find the one most appropriate for the public defender's office. In the next couple months she will come to you to see which one to invest in.

Harry Freebourn discussed the Administration Rules process and handed out Exhibit 5. He offered to conference in Ms. Bingham from the Department of Administration to discuss the rules process, but Ms. Bingham was not available. Chief Hood stated that Larry Murphy and Eric Olson put the rules together and ran them by Ms. Bingham.

Commissioner Veazey asked if the Department of Administration had already looked at these rules, and Harry Freebourn replied that they helped us write them.

Chief Hood stated that we needed rules on contracting procedures and reasonable compensation and on the determination of indigence.

Chairman Taylor stated that he was having reception difficulties and to email him a copy of the rules.

Chief Hood stated that we will be asking you to agree to start the rule making process, and asking you today to adopt temporary rules, so that we can continue with our function until formal rules are adopted.

Commission Nardi asked if there were ones provided here to look at.

Chief Hood stated that there was also a rule with definitions in it.

Commissioner Veazey stated that she wished she had the statute in front of her, since the rule was vague, it just restates the statute. The purpose of the rule is to give more guidance on the statute.

Chief Hood stated that she had met with Greg Petesch, Director of Legal Services for the Legislature, and felt it was not appropriate to get into too much detail in the rule but be more detailed in office policy as long as it was within the statute.

Harry Freebourn stated that the sponsor of the bill, Senator McGee, required two rules, (1) determination of indigence and (2) for compensation contracts. We have consulted with many people as to how to approach this process.

Commissioner Veazey asked how it tells us how to do it, it just restates the statute.

Harry Freebourn stated that what we thought we would do today is to get them out so the Commissioners can look at them and ask for changes at the next meeting. Our goal is to make the rules flexible so we don't have to change them because it is a long process to put rules in place. Our advisors have told us that a rule can be a description of the process to enact that statute. The determination of indigence process, for example, can be that the office shall prepare forms to capture financial information from an applicant and that our office shall distribute the forms. Applicants complete the forms per the instructions and our staff reviews the forms. Finally applicants will be notified regarding the outcome of our determination of indigence. We will train the people who will be looking at these forms and will keep the information confidential.

Commissioner Veazey stated that she would look into the rule process and provide additional comment at the next meeting. Commissioner Veazey also stated that if she were the public, this form doesn't give me any idea as to who is and who isn't eligible, however we don't need it to be any more specific than is legal.

Harry Freebourn stated that office procedure can be extremely specific as to this aspect.

Commissioner Nardi stated that Administration Rules are a whole separate set of laws to the state. They are not meant to be specific, they are meant to refer you to more specific statutes.

Harry Freebourn stated that we are looking for input and will come to you next month for comments and changes.

Commissioner Nardi asked Chairman Taylor for his fax number so we could get you these rules. Commissioner Nardi noted that the agenda had adoption of temporary rules as an action item and that we can adopt them today to keep the process going.

Harry Freebourn stated that yes, that is what we want to do today, we would like you to read through the temporary rules (Exhibits 6 and 7) and adopt them today so we can operate on July 1. These will be in effect until the formal rules go into effect.

Commissioner Nardi moved for a motion to adopt the rules as they are today; Commissioner Kaercher so moved and Commissioner Bischel seconded the motion. Commission Nardi then asked for any further discussion, to which there was none and the vote was unanimous except that Chairman Taylor stated that he would abstain from the vote since he didn't have them yet.

BREAK -----1:03 P.M.

Commissioner Nardi called the meeting back to order at 1:25 p.m. and asked for a training report.

Eric Olson reported that on the official website a newsletter called training tracks summarizes different aspects of training. We had two good sessions with the regional people, one on leadership skills. We want to have meetings, trying to dial them into the enormity of what it's like to be on the ground out there. There are attorneys that aren't used to working in an organized system. We addressed I.T. issues, forms, communications issues, conflicts issues to be resolved, etc. We've developed a sense of unity in the organization. Second thing is orientation conference at MSU which is a required item for everyone who works as an attorney or investigator, also contract attorneys – focus is teamwork and loyalty to the client. We're hoping that it will develop some enthusiasm for all the people out there who don't understand why we're doing what we're doing. Some of them don't know about the Commission or the ACLU lawsuit and suddenly they're being told that the regional person is going to be their boss. We want to emphasize that we aren't a threat but a resource. We have just hired 16 investigators around the state – their only job will be to serve the client in teamwork with the attorneys. They need to understand that a good investigator can help with bad check cases, etc. and read depositions. We are in the process of confirming at the end of August a retreat for all of the investigators and have some folks from outside who do training so that these investigators can be in a position to train their attorneys on how they can benefit their clients. We are also trying to identify a time and location for trial training session, Chief Hood wants it to occur in September, but may not be until October. In addition, I'm in touch with Vision Net to use them to lock in time over the next six to nine months so we can tell people out in Glasgow what is going on or other topics. One exciting thing is the Montana Advocacy Program, MAP, who wrote the book on disabilities, is going to let us use their teaching attorneys to teach the advocacy process to our attorneys – they don't understand how important advocacy is. It's been very exciting working with Commissioner Bischel to focus on cultural issues. I'm very removed from the culture of adolescence and have to understand it if I'm representing an adolescent. Trying to get the system off the ground and complete the orientation. I would encourage Commissioners to come to the conference in Bozeman, I've asked them to let us know if they are coming. Steve Bright is our guest speaker on Friday; he is the most inspiring lawyer in the country on the commitment we make in public defender work. He is also a tiger and agitator; he drove the Georgia legislature crazy. I need all the help I can get – my lines of communication are open – if you

have suggestions – I am open. The National Juvenile Defender Center has had some funding available and he is prodding them to get some money up here to do youth court training.

Commissioner Sherwood stated that there is a guy, Jack Paladino, out of San Francisco. He's a lawyer, I spent five months with him and learned more about investigation than I could ever learn anywhere... he's very, very good.

Eric Olson continued; at the outset we need people that are very good...our attorneys, investigators, etc., It would have been very exciting, if we could have had everyone there when the Governor was there. We want to get the contagion spread quickly – that's why we want to do this conference early, to energize these folks. There is a standard of performance that we can't back down on, don't want them to feel threatened by this. I understand that in every community the judges are different. For example, Kristina Neal spent five years working in the Appellate Defender Office doing ineffective counsel cases – going into courtroom where the judge, prosecutor and defense attorney are on one side and she's on the other. Our attorneys need to be able to go into a courtroom with confidence.

Commissioner Nardi asked if there were any other questions or comments for Eric Olson. If not, we will move on to a report from Larry Murphy.

Larry Murphy reported as follows: I copied the statute that pertains to contracted services. I created a system here based on the statute and the bill. Eric Olson created an attorney summary of education and experience.

Commissioner Nardi told Chairman Taylor that we were looking at 47-1-216.

Larry Murphy stated that he came up with a Memorandum of Understanding (MOU – Exhibit 9) essentially telling them that if they want to sign this then they are telling us that they are qualified in that area and they agree to abide by our standards. While we haven't adopted the standards yet and some have changed, they have read them. Attorney qualifications are set forth in the MOU, and because they are saying they are qualified, I used every area they could possibly be involved in with the public defender system. This contains all of the language that the statute says must be contained in our contracts. I'm going to have to change some of it; it talks about reporting protocol, supervision and evaluation of their services. I've created a database so I know all of the attorneys who want to contract with us by region. Regional people will be assigning cases to attorneys who are qualified. The regional person knows who in their area is qualified and will assign cases based on qualifications. The big thing in this contract is that we're not obligated to give them any certain number of cases, nor are they obligated to take cases. Our Regional PD is going to have the ability to look at their performance and the quality of their performance and if they don't like it then they simply won't have to assign more cases.

Commissioner Veazey asked if there was a separate application.

Larry Murphy stated yes, it's an attorney summary of education & experience. They are supposed to tell us about three cases they deemed important in their career. The second page, last time in our telephone conference you folks decided \$60 an hour, so I included that, we'll pay

\$60 per hour and travel time – I specified what travel time is. You also said we could pay \$25 per month for their office costs. I expected opposition to that but I really didn't get it. The big problem is the CLE credits. I went through costs because I want the regional people to oversee hiring of experts or any kind of major expenditures. We have a billing protocol and that is on our website with instructions. We are taking the current attorneys providing services and having them itemize their lists by cause number, case name, type of case, and status of case and giving them to Sandra who is assigning an OPD case number so that we can track it. This memorandum has the 20 hours of CLE, but the one I gave Sheri Heffelfinger doesn't, so there could be two different ones circulating. If they didn't get the one with the language of 20 hours, the 20 hours is in the standards. You said I needed to create a term so I told these folks this is for a year. The first batch went out on Friday, I have about 50 of 140 back today. They are coming in regularly. Two other things – I've also been getting applications from PIs, standard of pay from court administrator is \$46 per hour. I'm going to be coming back to you and asking how much we want to pay them. As Eric Olson told you, we have full time investigators so I don't know how many folks we'll have to contract with. Finally Harry Freebourn, Chief Hood and I have been talking with Montana Legal Services to provide attorneys for us in the youth in need of care cases. I think if we can negotiate a contract they'll provide an attorney for the child and our office would provide an attorney for the mother and we would have to conflict out the father or vice versa. That process is in negotiation, there are a lot of dollars but their number, as big as it is, would be less than what we have to pay a contract attorney at \$60 per hour.

Chief Hood stated that the Public Defender Act says we'll provide attorneys for the parents in DN actions, another statute provides that the Court appoints the attorney for the child, youth or guardian and at the end it says the OPD will pay for it so there is a little conflict as to who pays. Because we're conflicting out the parents anyway it bothered me that we're involved with the child so it's a good idea for Montana Legal Services to provide the service. There are all of these judges that want to appoint a Guardian Ad Litem (GAL) and an attorney for the GAL, so we're working with the Court Administration to clarify that issue. Even if Legal Services falls through, I'd like to figure out a way that we can get attorneys in those roles without having much contact with them.

Larry Murphy stated that we have an attorney in Bozeman, Todd Hillard; we're going to contract with him.

Chief Hood added that he does a very good job down there; he was on the appellate defender commission.

Sheri Heffelfinger stated that if there are statutory cleanups required for the Public Defender Act, we absolutely would love to make sure we find those out, I would like the Commission to keep me informed about that. There is a subcommittee that will be meeting about the public defender system. It would be very appropriate to bring those drafts forward before the August meeting so they can be approved.

Chief Hood proposed that we only have the parents.

Commissioner Sherwood asked what did you think about giving them incentive pay if they have staff, etc?

Larry Murphy stated he interpreted the statute in sub 4 (c) to mean that we will be able to provide that and you and I had a discussion yesterday where we could give them an incentive to get that on their own.

Commissioner Sherwood asked if he thought he had the authority to do that on your own without us talking to you.

Larry Murphy answered that he felt we needed to come out and give them a figure and I expected to hear a lot of slack about that, but I didn't expect that response, I got the CLE response.

Commissioner Sherwood stated that he has been saying that in a lot of places you can make it at \$60 per hour. One of the problems with that – a person who he knows who gets that has no staff and no research available. I thought maybe we should give incentives, we'll floor you at \$60 and if you confirm when you send in your letter that you have Lexis/Nexus which improves efficiency, we'll give you a couple of bucks more an hour. If you have staff we'll give you four more bucks an hour, if a paralegal, five. I like it, but I also don't want to micromanage, so my question to you, Larry is if we put you at a standard of \$60 and you've got authority now, we'll leave you on your own.

Larry Murphy stated that right now I just want to get people on board and get the people moving – I see that as something that will happen six months down the road.

Commissioner Veazey stated that with regard to a competitive process, I agree with it not being a competitive process – I agree that all factors – we need to assign contracts – we need to be careful to gather all information that's outlined in the statute.

Harry Freebourn provided the Commission with a financial report. Please refer to Exhibit 10. The fiscal 2007 dollars are no different than what we've already reported and there are no reasons to change the estimated \$3.3 million overrun at this time. The effect of placing a \$60 standard for attorney services in all courts is not known, however, what I've seen in all district court cases from information received by Mr. Murphy is that people are already getting \$60 and that the Judiciary is already paying travel costs and office costs. This report contains actual expenditures for fiscal 2006 and has estimates for the last 14 days of the year – we'll start giving this to you on a monthly basis. I've broken them down by central office, regional offices, and appellate defender. I've also broken down the report into personal services and operating costs. For the central office, I've broken the activity into departments. They are the Commission, Chief, Admin, Accounting, HR, and IT. You can see most of the dollars are in my area – I'm paying the lease and have the most people. For the Commission, what you've spent so far is \$45,000, and most of your costs are travel related, we budgeted for 12 meetings but we have had several meeting that were over two days. The information related to the costs in our regions reflects the fact that we hired people earlier and we've had payroll for them and we incurred \$30,960 through the 16th for these costs. Operating costs for the regions reflect only one that is odd and that is for software for a server in Missoula.

Commissioner Kaercher asked if the regional director in Kalispell is working a caseload that is to be billed to the Judiciary. Harry Freebourn stated that we would take a piece of his time and bill the Judiciary for the time he was working the cases if he in fact did so.

Commissioner Sherwood stated that he thought that John Putikka isn't really representing these people, but has gone out to the lawyers to see if they would represent these people and I think Chief Hood was good enough to say, we're going to jump in now.

Eric Olson stated that he wants to suggest to the Commission that John Putikka is the man of the year, he stepped into a firestorm up there in Kalispell and instead of saying I can't do anything until July 1, he got involved with the judges, attorneys and called attorneys for help – he's made a huge difference, it really turned the corner of realization for everyone, including the judges that it's not threatening order in the universe. John has gone above and beyond. I don't know what the clients would have done up there.

Chief Hood said that when Judge Curtis appointed the state as public defender on 150 cases on May 17, my first response was, "we don't exist." John Putikka has found attorneys to take these cases and made the court appoint all of them so the court would pay until the end of June – part of it was the clients needed help and the other part was we earned a lot of good will with the judges for stepping in. I suspect he didn't charge us for all of his time and had he not done it Kalispell would be a huge problem for us right now.

Mr. Freebourn continued and stated that for fiscal 2006 the total through June 16 for payroll was \$280,000 and \$191,000 for operating costs. Payroll is ramping up significantly; we think it will come in at \$371,000. We have applied for contingency funding from the Governor's office to cover this item. We spoke with Brent Doig, our budget analyst from the Governor's Office, and it's my understanding that we've been approved on that item. The governor's office has a contingency fund for anyone who needs additional funding for payroll. On operating costs we need to have all of our offices hooked up with servers, replace telephone systems, and outfit our employees with personal computers. We estimate that we could be from \$31,000 to \$281,000 over budget in operating costs, mostly due to information technology needs to assure that we are operational on July 1, 2006 to serve our clients. When you add it all up, we could be about \$331,000 over budget. Actually, we have a range that we could be over budget that is somewhere between \$81,000 and \$331,000. The Governor's budget office, the Department of Administration, and I have agreed to not have the Department of Administration bill us for information technology items until fiscal 2007 even though certain items have been received and installed in fiscal 2006. However, the legislative audit division believes that we need to book this cost in fiscal 2006 and ask for supplemental funding. We are standing by and waiting for direction from the Governor's Budget Office as to how to proceed.

Commissioner Hensley stated that it was discussed that the computers would come over from counties, are we still on that plan?

Harry Freebourn stated that the equipment, books and records come to us for our use free of charge. They'll be returned to the counties when we are done with them. The telephone

system in Bozeman is being replaced because the county is replacing their system and asked us to provide our own service and since we are in a separate building, we agreed to do so. If we do have a supplement for this year, the funding will come out of next year's appropriation.

Chairman Taylor asked Harry Freebourn about the malpractice insurance coverage for contract attorneys doing public defender work. Harry Freebourn stated that is one thing we haven't done; we couldn't get in touch with someone from the Department of Labor.

Chairman Taylor stated that you were asked to look into if there would be coverage for attorneys. If the state is going to cover them that's a big incentive or if not, we can go back to Commissioner Sherwood's proposal that we offer them more if they have coverage – I think it's a benefit to the state if there is another carrier involved.

Mr. Freebourn said that this was still on his to do list.

Commissioner Nardi stated that he recalled when Steve Bender said the Department of Administration would cover all of us.

Chairman Taylor stated that maybe we could have a risk manager show up in Bozeman and tell the contract attorneys.

Commissioner Nardi stated, I see Senator McGee here and maybe we could talk about conflicts management.

Chairman Taylor stated that couple of meetings ago we proposed and now adopted a standard for a conflict coordinator to make sure the conflict attorney's bills are being paid, we want to make sure the monetary part gets taken care of. We also had built into the standards that the conflict coordinator would determine if the conflict attorneys were meeting the standards because the staff didn't feel it was appropriate for them to do.

Commissioner Nardi asked why that would not be appropriate for Larry Murphy's job.

Chairman Taylor stated that we didn't want the regional office handling that, if they had a conflict they should not exercise any control.

Commissioner Nardi stated that we understand why we don't want the regional deputy to have control, but why not someone like Larry Murphy in the central office.

Chairman Taylor stated that the Central office wanted this outside of their responsibility so people wouldn't say it was too cozy of a system.

Eric Olson stated that we start out with an assumption about the correct or incorrect way to set up a new system. We needed to set up a system that an independent individual is handling a case.

Chairman Taylor stated that the position was designed to report directly to the commission and not to the office. He or she would be reporting directly to the commission and not to Chief Hood.

Commissioner Sherwood stated that the position would be for payment of fees, authorization of experts and fees and enforcement of standards.

Chairman Taylor stated that the Standards provide language “as so directed by the commission.” Bills get paid and things get taken care of. Sometime down the road move them into a more permanent position.

Commissioner Sherwood stated that possibly we authorize the creation of that position and then pay for it.

Chairman Taylor stated that we have already authorized the position, the job description has been written up, not posted I think. There would be one individual who would do it on a contract basis. List the application, we can do that, it would delay having someone on board. Even if on board, just training on the standards now. Useful to track these numbers immediately, but don’t know if it’s mandatory.

Commissioner Sherwood asked what action needs to be taken today.

Chairman Taylor stated that we need to defer to staff and need someone immediately. He has a person with prior experience for the Conflict Attorney. Commissioner Holton knows him, Commissioner Sherwood knows him. We need someone on a temporary basis, he is available, or advertise it, defer to staff.

Chief Hood stated that once they post it, they must post it for a couple weeks, it’s a two month process.

Eric Olson asked if we could have him on the ground tomorrow morning. If this individual is willing to take it, how much money allotted to pay this person in the interim and how quickly to get him up to speed?

Chairman Taylor stated that he talked to him yesterday, and he was willing to commit to half-time, if it is your desire to have someone on board now and want to enter into a temporary contract with him.

Commissioner Sherwood stated that he would propose for discussion to hire Kerry Newcomer right away as the Conflicts Coordinator.

Chief Hood suggested to contract with this person, so we need a request to pay him for the time being, need his qualifications, etc.

Commissioner Sherwood stated that we continue with the advertising and contract process and it will take a few months.

Chairman Taylor suggested we propose to contract with him for a specific period of time.

Commissioner Sherwood asked if he was interested in doing it full time.

Chairman Taylor stated that we could contract with him for an initial six months so we have someone in the position.

Commissioner Hensley asked how many hours per week or per month do you anticipate this position.

Chairman Taylor stated that he had no clue, and then asked Eric Olson if he had any idea. Eric Olson answered that he did not.

Commissioner Hensley asked if he was willing to trim his case load for six months.

Eric Olson said that simply processing as a way stop as the bills are coming through, and help explain the process outside the immediate public system. He is willing to go to 50% case load and not handle a public defender case load.

Senator Dan McGee, Republican from Laurel, stated that with regard to this issue, this is one of those detail type things that those of us in the Legislature could not see. The purchasing section in state law would not apply because he would not be doing any public defender work. And it does not apply to this individual.

Commissioner Nardi suggested we go around the table.

Commissioner Sherwood went to the white board and drew a chart explaining conflicts. Do you know the percentage of conflicts that arise, Chief Hood? Chief Hood answered no. Some never saw a conflict they couldn't handle. Some handle conflicts and only handle those cases that are truly conflicts.

Representative John Parker asked if the conflict policy was set forth in the new standards.

Chairman Taylor stated that it was, that the basic job description of the conflict coordinator was to be retained on contract by the public defender and separate from the state office. He performs functions directly related to the resources, files written financial reports on monthly basis, will provide reports to the commission.

Representative Parker stated that it is so valuable to be here at an operational level; it is reassuring that Larry Murphy gets good quality for the dollars paid, no secret on the abuse as it stands now. A lot of what I am hearing is answering some of the questions. Further, that he needed to learn more about the conflict process.

Chairman Taylor answered that if an attorney thinks he has a conflict, he goes to the regional guy, who then goes to Eric Olson for a recommendation. Eric Olson has asked if we

can obtain outside advice if he can't figure it out. Professor Patterson is willing to help out on an hourly basis.

Representative Parker stated that there were three or four co-defendants apiece on my last case, so it's not too hard to imagine what that will do to a budget.

Chief Hood stated that every co-defendant is not a conflict case.

Chairman Taylor asked if there is a conflict, do we keep the most serious?

Chief Hood stated that it is a case by case basis. They must be fully informed, not always a conflict, but we are going to be very careful.

Commissioner Sherwood stated that we can assure you we will try to minimize the number of conflict cases that have to go out.

Representative Parker stated that that's about enough from me.

Commissioner Sherwood stated that he had one comment, in the federal system, there is always a conflict.

Senator McGee asked why doesn't this individual report directly to Chief Hood? Must have someone on a day to day basis, I guess it's no big deal, all this stuff comes down to money, but be aware that the grandest scheme can die quickly in the legislative process.

Commissioner Veazey asked how much precedent there is in having this outside position report to the commission. We are not set up as being a management position; we would be meeting more regularly for this matter alone.

Chairman Taylor stated that a lot of states end up setting up a parallel system for this situation.

Senator McGee stated that Washington State came in and gave us a great deal of help; they do have a parallel system set up. They have different law firms, consortiums, individual attorneys set up these, but still with the individual offices. You folks need to make a decision if this person reports to the commission or to whom, unless you do a Randi look-a-like, not having any continuity with Randi's office. If you set up the commission as being the administrator of this, you may lose some of the day to day of this. If you folks decide that this is what you need to do, I will carry it for you.

Commissioner Sherwood stated that Larry Murphy will perform that function for now and we will mull it over for a month and see what happens. I'm still not sold that Larry Murphy can't do it. What goes on in the regions, he can be fair with the conflict attorney and the public defender's office.

Commissioner Nardi asked to go around the table with that suggestion.

Commissioner Sherwood interrupted; I wasn't done, I don't agree with you that every one of those is an IAC claim. We would need a mini-everybody, not just a mini-Randi. We haven't got law in effect to do that, so we can divorce as much as possible.

Commissioner Nardi asked what conflict does Larry have if there are two contract attorneys and a public defender?

Commissioner Sherwood added that he's going to get a complaint.

Commissioner Nardi stated that he would just replace the lawyers, because if the lawyer is incompetent...

Commissioner Sherwood stated that Larry Murphy can't look at the files.

Chief Hood stated that she would hire the chief appellate defender and then I am done. So I did that.

Commissioner Sherwood asked if we should be overseeing that. This person is going to have to be doing the job of Chief Hood, Larry Murphy and not overlapping with Eric Olson's job and with Harry's position, its a little mini office. Run 3-5% of the workload depending on how broad we go. We need someone now, if we make the decision that Larry will do that, I will go along with it, I think Kerry could, then we have to get Kerry. Talking about 20-30 cases a month that may be conflict cases.

Commissioner Bischel stated that she agreed with Mike.

Commissioner Holton stated that she was not comfortable being a separate function. I think about the Federal system, they appoint somebody, then we have to go to the judge for our experts. I don't see us as having any interest in conflict counsel. We don't have any interest in having it done badly so our clients get a better shake. What about the other states?

Senator McGee stated that Washington, Colorado, Wyoming, New Mexico, New Hampshire had systems that we should look at.

Commissioner Hensley asked if they had a separate person.

Eric Olson stated that he could make a couple of suggestions, and we may want to go back and rehash what we did several meetings ago. Our standards cover a couple of important factors. Some conflict cases could be handled by people crossing regions to help with conflict.

Commissioner Veazey stated that one of the things we could do is set up one of the regional offices as an individual office for conflicts.

Eric Olson asked when is a conflict a conflict. Might not be a conflict, but might be one that the so-called ethical wall system is acceptable.

Commissioner Veazey asked if we can create the fire walls.

Commissioner Sherwood stated that if Larry is handling all that process and he doesn't have access to any of their files by the fire wall, and then when a conflict develops in Region 1, tell the conflict attorney to get an expert and send us a bill.

Eric Olson stated that if you fire wall him out, then he can't provide supervision and case management.

Commissioner Sherwood states that Larry doesn't have to do that job, he has to collect the bills and authorize the payment.

Commissioner Hensley stated that we must have quality control, have an overview of the factual information in the conflict case. We respect their history and analysis; you would have to have some information.

Commissioner Nardi states that not on each individual case.

Commissioner Hensley states that if he is handling the conflict cases, we are saying that the conflict attorney can report to Randi and not to the regional office.

Commissioner Sherwood states that there is the conflict.

Commissioner Nardi states that the regional director determines the conflict and appoints the conflict attorney.

Commissioner Sherwood states that now in comes the bill and its \$63,000 for a DUI.

Commissioner Sherwood states that he doesn't have any access to the co-defendant case.

Commissioner Hensley states that we have to have some short term decision for this first six months.

Commissioner Holton suggests that we look at other states to see what they have done.

Commissioner Sherwood states that if Larry is fire walled out of any public defender case that he keeps and handles any situation as it arises.

Representative Parker states that say if you have four co-defendants, in Cascade County, your conflict attorneys are going to be in conflict with each other. Now you have three conflicts in the conflict office and one in regional office.

Commissioner Sherwood states that if we had a conflict attorney, he can only take one of them.

Representative Parker states that then this person is forever trying to justify his work to Larry, not trying to give away his content of the case. Obviously it boils down to the dollars and cents, which issue will come on January 3, 2007, the more we anticipate it now.

Commissioner Hensley asks Representative Parker what he would propose.

Representative Parker stated that he doesn't necessarily have a proposal, just trying to stay out of the personnel. Let's think about two different TV screens, one is the immense amount of work this commission; with the day to day detail, and screen number two is price tag coming before the legislature. I am grateful to have the opportunity to attain an awareness of this whole process, but it is good to keep one eye on January and understand the psychology that 100 House representatives and 50 Senators who are stuck on health care for little kids, school funding, and other stuff. The more we can do to hold the price tag down, than leave it to a group who really may not care as much as we do. How much justice can we get for the money?

Senator McGee stated that Representative Parker is right on. My thought is if we did not envision the conflict officer and so forth and that needs to be something to be tweaked, I will be glad to do that. At this moment in time, less than 12 hours away, you already have staff in place that can deal with this issue, then to hire someone to report to the commission. The Legislative staff office in Helena has information about how other states handle conflict issues.

Commissioner Kaercher states that this is all still quite confusing, the County Attorney became the district judge, and he conflicts out all the time. Hard for me to understand why we can't figure out how to get conflicts done with the people we have.

Commissioner Hensley stated, I want to see what other states are doing, but our office opens on Monday and we need a temporary conflicts guy now. We are putting this on Larry's plate, and that is not in his description.

Commissioner Sherwood states that he is going to be working for all these guys.

Commissioner Hensley states that if we are to contract out to someone who reports to us, which would take more time. My suggestion would be to go with the gentleman that Jim spoke to for at least three months.

Commissioner Hensley stated that she agreed with that proposal, rather than put it on Larry, give us three to six months to see what other states are doing.

Commissioner Fleming stated that her mind has changed. I would rather not put on Larry, but much rather go on a three-month basis for right now, it's a good time line and then evaluate what we need. We don't know what is going to hit us on Monday.

Commissioner Hensley stated that Chief Hood wants nothing to do with the supervision of this person. However, if they do have a day to day question, unforeseen problem, what is the strategy, do we all get on a conference call, and do we select a sub-committee.

Chief Hood stated that this was certainly on the financial end of it, where we have Harry and Sandra, they can help address those payment issues and answer all those questions, and I don't see that as a problem at all. I will not hang up on them if they need help.

Commissioner Sherwood stated that he has a problem understanding the conflict. I see Larry that is dealing with all these conflict attorneys, will the conflict attorneys be contract attorneys? I envisioned a conflict in Missoula and so the regional guy calls up the regional guy in Missoula and send down someone who is a conflict guy.

Commissioner Nardi stated that they are not an employee, Larry knows them on a first name basis, whether it is a conflict. I feel like he is the logical one to do it. The consensus seems to point in that direction.

Chairman Taylor stated that he would propose to hire someone for five months, there will be a period of time training on the new standards, and then make a decision before they go into effect. We just adopted these standards a couple hours ago. If we hire them on a temporary basis then we have some figures.

Sheri Heffelfinger stated that we have done some research on what Chairman Taylor has been talking about, we can bring in some guest speakers, technical assistance would be available. If I can help, I would be willing to make some contacts.

Commissioner Nardi stated that we would be taking that on. I would propose that your motion is good, and that we form a subcommittee to research these other states. We can put Kerry Newcomer on as stated.

Commissioner Sherwood stated that with regard to something Tara said earlier, what if there are four, we decided that we have a conflict, how far does it play?

Commissioner Nardi stated that according to today, we have to have a conflict for every situation that comes up.

Commissioner Hensley stated that there is going to be a "what if" for every circumstance. What about in a month it becomes evident that it is not working on any level, we really have to do something now.

Commissioner Nardi asked Chairman Taylor if Kerry would be amicable to a month by month basis.

Chairman Taylor stated that he could check with him, and that the position would terminate on a 30 day notice.

Commissioner Nardi stated that it was so moved.

Chairman Taylor stated that in all fairness to Kerry is he still on a contract for so many months.

Commissioner Nardi stated that we should hire Kerry on a five month contract with a 30-day notice of termination. We shall establish two committees, one to research and one to oversee Kerry. Do we have any volunteers?

It was determined that the Committee on Research would be Chairman Taylor, Commissioner Nardi and Commissioner Veazy. The subcommittee to oversee Kerry Newcomer would be Commissioner Sherwood as the head of the subcommittee, Commissioner Hensley and Commissioner Kaercher.

Commissioner Fleming asked if we were hiring or contracting, and Commissioner Nardi answered that we were contracting.

Commissioner Fleming moved on the Motion, Commissioner Sherwood seconded the motion and Commissioner Nardi asked for all in favor, there were no nays. Commissioner Nardi then asked for any Public Comment.

PUBLIC COMMENT:

Don Kinman, Executive Director of AFSCME, stated that the unit of determination decided yesterday and prevailed to represent employees of the public defender. He said that we recognize the monumental task, as well as our goal to be very successful; we are committed to do whatever we need to do to be successful. Our exclusive representative will be Matt Thiel, who has had a first negotiation with your people, he has already visited with them and got off to a good start, we want to keep it that way.

Commissioner Hensley asked if the vote was yesterday, and if the Teamsters are no longer representing any individuals?.

Don Kinman answered that AFSCME is the only representative.

Commissioner Hensley asked how many ballots were cast. Don Kinman answered that there were 44. Chief Hood stated that that included everyone who was employed as of June 2.

Commissioner Hensley stated that on July 1 we have a lot of new employees coming on. Will those people be included in the ballot?

Don Kinman answered no, that anyone after June 2 was not included in the ballot. Of the 44 that voted there were 27 votes for AFSCME.

Betsy Griffin of the ACLU stated that she just started on Monday, and that she needs to get up to speed on everything but hopes to be here at most of your commission meetings. It is a pleasure watching you guys get going.

Commissioner Nardi asked for any more public comment. There was none.

Chief Hood stated that at the last meeting the pro bono policy was brought up. The Governor's copy, in a general way, excludes all attorneys who are employed.

Commissioner Veazy stated that the attorney generals office has its own pro bono policy.

Commissioner Nardi suggested we put it on the agenda for next month.

Commissioner Hood provided information regarding a problem in Bozeman that she learned about during the course of the meeting. Two people were arrested in Bozeman and charged with kidnapping and murder. Peter Ohman is aware of this and does fabulous work. There is talk that notice of intent to seek the death penalty may be given.

Chief Hood stated that she sent a message to Peter that we will be meeting within the week to discuss the case. They are both African American. They were students at MSU. That's all I know at this time. Peter is on top of it.

Chief Hood also stated that August 11 is the date for the Dawson execution. Continued legal discussions on the death penalty occurred.

Commissioner Nardi asked for any old business.

Chief Hood stated that with regard to the Native court worker, they have changed the name to Native Court Officer.

Commissioner Hensley stated that they told us they changed it. Commissioner Hensley also asked Chief Hood to verify this name change, stating that when you start calling someone an officer, it puts them on the same level with the judge and court. But, it is my understanding that this person is going to help us communicate with the Native American population and be more creative in terms of handling these cases. When did the Department of Corrections determine there would be one instead of two? I agreed with them, I think it is important to do it very well this first year and not spread us too thin.

Commissioner Bischel stated that this Native Court worker is going to oversee that process.

Commissioner Hensley stated that the Native Court worker comes under a one time \$100,000 grant. He/she will be located in Cascade County, because of greater need.

Chief Hood stated that this person will build relationships with family members, with Native Americans there at the time.

Commissioner Bischel stated that the model is not going to include all of the elements of the Canadian system. Betty asked who will coordinate? Is Corrections left to do the actual coordination? Commissioner Hensley responded that the committee of the trilogy is going to hire and supervise the person, directly under the guides of the public defender office, but they ultimately report to the committee.

Commissioner Nardi asked Chief Hood if she had anything else, and then asked for any Old Business, mainly where we were with the standardized software for all the offices.

Harry Freebourn stated that Chief Hood signed a contract yesterday with Just Ware and it will be assigned to all offices that didn't have something in place already.

Chief Hood stated that that will keep us going until Teri Heiland and her crew can assess other options. At the next meeting, we will have Teri available to tell you exactly how far they have gotten. They have spent a tremendous amount of time to get the offices on line. Not sure it has been the highest thing on their to-do list.

Chairman Taylor stated that the commission still needs to establish a performance evaluation team.

Commissioner Nardi stated that has been formed, I am on it. We have several forms and just need to choose which ones we want; there are several forms from judges and other states.

Chairman Taylor asked Chief Hood where we were with the client-grievance procedure.

Chief Hood stated that she had a draft and hopes by Wednesday to have something ready to go on the website.

Commissioner Nardi asked for any new business and asked if we've chosen a July meeting date. Chairman Taylor stated that July 28 would be the best date. July 31 was chosen as the next meeting date. Larry Murphy suggested having it in Eastern Montana, and Miles City was selected.

Commissioner Nardi stated that on a more personal note, he wanted to thank everybody, we did a great job this past year.

Commissioner Sherwood stated that we are skipping a meeting in August and will have one in September. Commissioner Sherwood asked for a motion to adjourn the meeting. Commissioner Bischel seconded the motion.

Meeting was adjourned at 3:52 p.m.

Exhibits 1 – 10 have been posted with these minutes to the Office of the State Public Defender website at: <http://www.publicdefender.mt.gov/>